

JUDITH FINELL MUSICSERVICES INC.

CONSULTING • RESEARCH • MUSIC COPYRIGHT MATTERS • MUSIC INDUSTRY SUPPORT

December 6, 2006

To: James H. Harris III, Esq.
Harris, Martin, Jones, Shrum, Bradford & Wommack, P.A.
49 Music Square West, Suite 600
Nashville, TN 37203

From: Judith Finell

Re: Bata Kanda / Baby Bash

Preliminary Report

Comparison of "Najciganskije Vasarsko Kolo," performed by Bata Kanda to "Trees," performed by Baby Bash

Materials Received

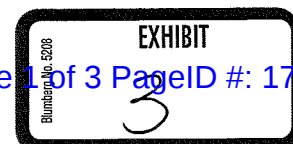
1. The following materials were provided for comparison:

- a. "Trees" (Track 5), performed by Baby Bash on the album *Super Saucy*, recorded by Universal Records (2006).
- b. "Najciganskije Vasarsko Kolo" (Track 12), performed by Bata Kanda on the album "Harmonika Za Sva Vremena – Bata Kanda Plays with Heart and Soul" (RTS PGP 430378). (Composed, 1989, published 1992).

Assignment

2. We were asked for our opinion as to whether the voice and vocal material found at the beginning of "Trees" by Baby Bash (referred to below as "Baby Bash"), was the same as that on the recording "Najciganskije Vasarsko Kolo," as performed by Bata Kanda.

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Preliminary Opinion

3. A preliminary comparison of the two tracks reveals that the opening recitation found in “Najciganskije Vasarsko Kolo” (referred to below as “Kanda”) appears to have been edited and copied as the opening recitation in “Baby Bash.” The recitations appear at the very beginning in both tracks. Regardless of the language of the recitation, the similarity in the recitation used in the two tracks is instantly recognizable.

4. The recitation, both the performer and the material performed, are strikingly similar in the two works.

5. Upon initial examination, no other elements seem related between the two recordings.

6. It is nearly impossible for even the same performer to give two identical performances, and these two recordings appear to be an exact match of one another.

7. Further examination and analysis would undoubtedly support these initial conclusions.

Initial Findings

8. In each work, the opening recitation is approximately 5 seconds in length.

9. “Baby Bash” is a work written in the rap / hip hop genre. It is 3 minutes, 45 seconds in length.

10. “Kanda” is written in a folk music idiom of Eastern European derivation, scored for vocalist, accordion, and other folk instruments. It is 4 minutes, 34 seconds in length.

11. The recitation of “Kanda” is approximately 5 seconds in length, and is in the same language as the remainder of the vocal music in the performance, which we have been informed is Croatian.

12. The recitation on “Baby Bash” is also approximately 5 seconds in length, and is in the same language as is the recitation on “Kanda.” However, the remainder of the vocal performance on “Baby Bash” is in English.


Summary

13. It appears obvious that the opening section of "Baby Bash" was taken from the opening section of "Kanda." The vocalist and actual performance on "Baby Bash" in the opening section of the recording appear to be identical to that heard in the opening of "Kanda."

14. From a musicological standpoint, a claim of copyright infringement and misappropriation of a recorded performance on the part of the proprietors and performers of "Kanda" against the proprietors and creators of "Baby Bash" would be valid.

15. This is a preliminary report. However, it is highly probable that a more detailed inspection of the two recordings would validate these findings, and further support such a claim.

Report submitted on December 6, 2006 by:

A handwritten signature in cursive script, appearing to read "Judith Finell".

Judith Finell, Musicologist and President
Judith Finell MusicServices Inc.